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NOTIFICATION.

No. L.D. 649—Legis. 3-52-3, dated Bangalore, 4th July 1952.

Ordered that the Indian Income-tax (Amendment) Bill, 1952, which was introduced in the House of the People on 26th May 1952 and published in the *Gazette of India*, Part II, Section 2, dated the 31st May 1952, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

Legal Remembrancer and
Secretary to Government,
Law Department.

GOVERNMENT OF INDIA.

HOUSE OF THE PEOPLE.

The following Bill was introduced in the House of the People on 26th May, 1952 :—

BILL* No. 38 OF 1952.

A bill further to amend the Indian Income-tax Act, 1922.

BE it enacted by Parliament as follows :—

1. *Short title.*—This Act may be called the Indian Income-tax (Amendment) Act, 1952.

2. *Amendment of section 2, Act XI of 1922.*—In section 2 of the Indian Income-tax Act, 1922 (hereinafter referred to as the principal Act),—

(*a*) for clause (2), the following clause shall be substituted, namely :—

"(2) 'assessee' means a person by whom income-tax (whether with or without interest) or any other sum of money is payable under this Act, and includes every person in respect of whom any proceeding under this Act has been taken for the assessment of his income or of the loss sustained by him or of the amount of refund due to him ;";

(*b*) clause (6) shall be renumbered as clause (5A), and after clause (5A) as so renumbered, the following clause shall be inserted, namely :—

"(6) 'Director of Inspection' means a person appointed to be a Director of Inspection under section 5, and includes a person appointed to be an Additional Director of Inspection, a Deputy Director of Inspection or an Assistant Director of Inspection ;";

(*c*) after clause (6D), the following clause shall be inserted, namely :—

"(6E) 'Inspector of Income-tax' means a person appointed to be an Inspector of Income-tax under section 5 ;";

(*d*) for clause (11), the following clause shall be substituted, namely :—

"(11) 'previous year' means—

(i) in respect of any separate source of income, profits and gains—

(*a*) the twelve months ending on the 31st day of March next preceding the year for which the assessment is to be made, or, if the accounts of the assessee have been made up to a date within the said twelve months in respect of a year ending on any date other than the said 31st day of March, then, at the option of the assessee, the year ending on the date to which his accounts have been so made up :

Provided that where in respect of a particular source of income, profits and gains an assessee has once been assessed, or where in respect of a business, profession or vocation newly set up an assessee has exercised the option under sub-clause (*c*), he shall not, in respect of that source or, as the case may be, business, profession or vocation exercise the option given by this sub-clause so as to vary the meaning of the expression 'previous year' as then applicable to him except with the consent of the Income-tax Officer and upon such conditions as the Income-tax Officer may think fit to impose ; or

*The President has, in pursuance of clause (1) of article 117 and clause (1) of article 274 of the Constitution of India, recommended to the House of the People the introduction of the Bill.

(*b*) in the case of any person, business or company or class of person, business or company, such period as may be determined by the Central Board of Revenue or by such authority as the Board may authorise in this behalf ; or

(*c*) where a business, profession or vocation has been newly set up in the financial year preceding the year for which assessment is to be made, the period from the date of the setting up of the business, profession or vocation to the 31st day of March next following or to the last day of the period determined under sub-clause (*b*), or, if the accounts of the assessee are made up in respect of a period not exceeding twelve months from the date of the setting up of the business, profession or vocation and the case is not one for which a period has been determined under sub-clause (*b*), then, at the option of the assessee, the period from the date of the setting up of the business, profession or vocation to the date to which his accounts have been so made up:

Provided that when such other date does not fall between the setting up of the business, profession or vocation and the next following 31st day of March inclusive, it shall be deemed that there is no previous year for the said assessment year and the previous year which would otherwise have been determined according to the option exercised by the assessee shall be deemed to be the previous year for the next succeeding assessment year ;

(ii) in respect of the share of the income, profits and gains of a firm where the assessee is a partner in the firm the period as determined for the assessment of the income, profits and gains of the firm ;".

3. *Amendment of section 4, Act XI of 1922.*—(1) In section 4 of the principal Act,—

(*a*) in sub-section (1),—

(i) after the third proviso, the following further provisos shall be inserted, namely :—

"Provided further that, in the case of a person who was not resident in the taxable territories in two out of the three years immediately preceding the previous year, so much of the income, profits and gains referred to in sub-clause (ii) of clause (*b*) as accrued or arose to him without India, shall not be included in his total income chargeable in any year subsequent to the year ending on the 31st day of March, 1951, whether his assessment for that year has or has not been completed before the commencement of the Indian Income-tax (Amendment) Act, 1952 :

Provided further that, in the case of a person resident in the taxable territories to whom the preceding proviso or paragraph 8 of the Part B States (Taxation Concessions) Order, 1950, does not apply, so much of the income, profits and gains referred to in sub-clause (iii) of clause (*b*) as accrued or arose to him without India and were not chargeable under this Act, unless brought into or received in the taxable territories, shall not be included in his total income if—

(i) such income, profits and gains are brought into or received in the taxable territories after the 2nd day of September, 1951, and before the 1st day of April, 1954 ;

(ii) half of the amount of such income, profits and gains is invested, within three months of the receipt thereof in the taxable territories, in securities of the Central Government or of a State Government purchased through the Reserve Bank of India and kept with the said Bank for custody for a minimum period of two years ; and

(iii) out of the remaining half, the amount of any income-tax, interest or penalty or any other sum due from such person under this Act on the date of receipt of such income, profits and gain in the taxable territories is paid within the said three months";

(*ii*) in *Explanation 2*, after the words "payable in the taxable territories", the words, brackets and figures "and not being pension payable without India to any person referred to in clause (2) of article 221 or article 314 of the Constitution" shall be inserted;

(*b*) in sub-section (3),—

(i) for clauses (i) *and* (*ia*), the following clause shall be substituted, namely:—

"(*i*) Subject to the provisions of clause (*c*) of sub-section (1) of section 16, any income derived from property held under a trust or other legal obligation solely for religious or charitable purposes, in so far as such income is applied to such religious or charitable purposes only, and in the case of a property so held in part only for such purposes, the income applied or finally set apart for application thereto:

Provided that such income shall be included in the total income unless—

(i) in the case of property held under a trust or other legal obligation created before the commencement of the Indian Income-tax (Amendment) Act, 1952, the income wherefrom is applied to religious and charitable purposes without the taxable territories, the Central Board of Revenue by general or special order in this behalf otherwise directs; and

(ii) in the case of income derived from business carried on on behalf of a religious and charitable institution, the income is applied wholly for the purposes of the institution and—

(*a*) the business is carried on in the course of the carrying out of a primary purpose of the institution or

(*b*) the work in connection with the business is mainly carried on by the beneficiaries of the institution.

(ii) in clause (xii), for the figures "1952" the figures "1954" shall be substituted:

(iii) after clause (xiii), the following clauses shall be inserted, namely:—

"(xiv) Any income received by an employee of a foreign enterprise, not engaged in any trade or business in the taxable territories, as remuneration for services rendered by him during the course of his stay in the taxable territories, where such stay does not exceed in the aggregate a period of ninety days in any year and where such remuneration is not liable to be deducted from the income, profits and gains chargeable under the Act.

(xv) Any income received as remuneration, whether directly or indirectly, from the Government of a foreign State by any person who is assigned to duties in India in connection with any co-operative technical assistance programmes and projects in accordance with an agreement entered into by the Central Government and the Government of that foreign State (the terms whereof provide for the exemption given by this clause) and any other income of such person or of the members of his family accompanying him to India, which accrues or arises without the taxable territories, and is not deemed to accrue or arise in the taxable territories, upon which such person or the members of his family are required to pay any income or social security tax to the Government of that foreign State.

(xvi) Any income from interest on, or from premium on the redemption of, any bonds issued by the Central Government under a loan agreement between the Central Government and the International Bank for Reconstruction and Development, except where the holder of such bond is a person resident in the taxable territories.

(xvii) Interest on the 3½ per cent. Ten Years Treasury Savings Deposit Certificate issued by or under the authority of the Central Government for an amount not exceeding the maximum amount which an assessee is entitled to deposit in such certificates.

(xviii) Interest on securities held by the Issue Department of the Central Bank of Ceylon constituted under the Ceylon Monetary Law Act, 1949.

(xix) Any daily allowance received by, or which has accrued due to, person before the 1st day of April, 1952, by reason of his membership of the Dominion Legislature or of the Constituent Assembly or of Parliament or of any State Legislature or of any Committee thereof."

(*e*) in the last paragraph, in the definition of " charitable purpose", the the word, letter and brackets " clause (ia)" shall be omitted, and for the words " income of a private religious trust " the words " income from property held under a trust or other legal obligation for private religious purposes " shall be substituted.

(2) The amendments made by sub-clause (iii) of clause (b) of sub-section (1) shall be deemed to be operative in relation to all assessments for any year whether such assessments have or have not been completed before the commencement of the Indian Income-tax (Amendment) Act, 1952.

4. *Amendment of section 5, Act XI of 1922.*—In section 5 of the principal Act,—

(*a*) in sub-section (1).—

(i) after clause (a), the following clause shall be inserted, namely :—

" (aa) Directors of Inspection," ;

(ii) after clause (d), the following clause shall be inserted. namely ,—

" (e) Inspectors of Income-tax. " ;

(*b*) after sub-section (1), the following sub-section shall be inserted, namely :—

" (1A) The Central Government may appoint as many Directors of Inspection as it thinks fit, and Directors of Inspection shall, subject to the control of the Central Board of Revenue, perform such functions of any other Income-tax authority as may be assigned to them by the Central Government." ;

(*c*) for sub-section (2), the following sub-section shall be substituted, namely :—

"(2) The Central Government may appoint as many Commissioners of income-tax as it thinks fit and they shall perform their functions in respect of such areas or of such persons or classes of persons or of such incomes or classes of incomes or of such cases or classes of cases as the Central Board of Revenue may direct, and where such directions have assigned to two or more Commissioners of Income-tax the same area or the same persons or classes of persons or the same income or classes of incomes or the same cases or classes of cases, they shall have concurrent jurisdiction subject to any orders which the Central Board of Revenue may make for the distribution and allocation of work to be performed.";

(*d*) for sub-section (3), the following sub-section shall be substituted, namely :—

"(3) The Central Government may appoint as many Appellate or Inspecting Assistant Commissioners of Income-tax and Income-tax officers of Class I service as it thinks fit, and the Commissioner may, subject to the rules and orders of the Central Government regulating the conditions of service of persons in public services and posts, appoint, as many Income-tax Officers of Class II service and Inspectors of Income-tax as may, from time to time, be sanctioned by the Central Government.

(3A) Subject to the rules and orders of the Central Government regulating the conditions of service of persons in public services and posts an income-tax authority may appoint such executive or ministerial staff as may be necessary to assist it in the execution of its functions." ;

(*e*) in the second sentence of sub-section (5), the words "with the previous approval of the Central Board of Revenue" shall be omitted, and for the words "Appellate Assistant Commissioner" wherever they occur in this sentence, the words "Inspecting Assistant Commissioner" shall be substituted ;

(*f*) after sub-section (5), the following sub-section shall be inserted, namely :—

"(5A) Inspectors of Income-tax shall perform such functions in the execution of this Act as are assigned to them by the Income-tax Officer or other income-tax authority under whom they are appointed to work, and shall be subordinate to such officer or authority.";

(*g*) for sub-section (7), the following sub-section shall be substituted, namely :—

"(7) For the purposes of this Act,—

(i) Appellate Assistant Commissioners of Income-tax shall be subordinate to the Commissioner of Income-tax within whose jurisdiction they perform their functions; but no orders, instructions or directions shall be given to them so as to interfere with their discretion in the exercise of their appellate functions ;

(ii) Inspecting Assistant Commissioners shall be subordinate to the Director of Inspection and to the Commissioner of Income-tax within whose jurisdiction they perform their functions ;

(iii) Income-tax Officers shall be subordinate to the Director of Inspection, the Commissioner of Income-tax and the Inspecting Assistant Commissioner of Income-tax within whose jurisdiction they perform their functions."

(*h*) after sub-section (7A), the following sub-sections shall be inserted, namely :—

"(7B) The Director of Inspection, the Commissioner or the Inspecting Assistant Commissioner, as the case may be issue such instructions as he thinks fit for the guidance of any Income-tax Officer subordinate to him in the matter of any assessment, and for the purposes of making any inquiry under this Act (which he is hereby empowered to do), the Director of Inspection, the Commissioner and the Inspecting Assistant Commissioner shall have all the powers that an Income-tax Officer has under this Act in relation to the making of inquiries ; and the question whether any, and if so, what instructions were issued shall not be inquired into by any appellate authority under this Act or by any Court.

(7C) Whenever in respect of any proceeding under this Act an Income-tax authority ceases to exercise jurisdiction and is succeeded by another who has and exercises jurisdiction, the Income-tax authority so succeeding may continue the proceeding from the stage at which the proceeding was left by his predecessor."

5. *Amendment of section 5A, Act XI of* 1922.—In section 5A of the principal Act,—

(*a*) in sub-section (2), the proviso shall be omitted;

(*b*) in sub-section (3), for the words beginning with "A judicial member shall be" and ending with the words and figures "the Auditors Certificates Rules, 1932:", the following shall be substituted, namely:—

"A judicial member shall be a person who has for at least ten years either held a civil judicial post or been in practice as an advocate of a High Court, and an accountant member shall be a person who has for at least ten years been in the practice of accountancy as a chartered accountant under the Chartered Accountants Act, 1949 (XXXVIII) of 1949) or as a registered accountant under any law formerly in force or partly as a registered accountant and party as a chartered accountant:";

(*c*) in sub-section (4), the word "judicial" shall be omitted.

6. *Amendment of section 7, Act XI of* 1922.—In sub-section (1) of section 7 of the principal Act, in the proviso to *Explanation 2*, after the words "liable to income-tax any payment" the words "of death *cum* retirement gratuity received after the 16th day of April, 1950, under the revised Pension Rules of the Central Government or under any similar scheme of a State Government or any payment" shall be inserted.

7. *Amendment of section 9, Act XI of* 1922.—(1) In section 9 of the principal Act,—

(*a*) in sub-section (1)—

(i) the words "*bona fide*" shall be omitted;

(ii) after clause (ii), the following proviso shall be inserted, namely:—

"Provided that for the purposes of making any assessment for the year ending on the 31st day of March, 1952, in respect of the property situated in an area affected by the Assam earthquake of 1950 the allowance on account of repairs referred to in clauses (i) and (ii) shall be increased up to a maximum of one half of the annual value thereof or the amount of expenditure proved to have been actually incurred for repairs, whichever is the less";

(*b*) for the first proviso to sub-section (2), the following proviso shall be substituted, namely:—

"Provided that, where the property is in the occupation of the owner for the purposes of his own residence, the annual value shall be determined in the same manner as if the property had been let to a tenant so however that, where the sum so determined exceeds ten per cent of the total income of the owner, the annual value of the property shall be deemed to be ten per cent of such total income".

(2) The amendments made by sub-clause (ii) of clause (*a*) of sub-section (1) shall be deemed to be operative for any assessment for the year ending on the 31st day of March, 1952, whether made before or after the commencement of this Act, and where any such assessment has been made before such commencement it shall be lawful for the Income-tax Officer to revise it, wherever necessary, to give effect to this amendment.

8. *Amendment of section 10, Act XI of* 1922.—In section 10 of the principal Act,—

(*a*) in sub-section (2),—

(i) in sub-clause (*a*) of clause (vi), for the figures "1952", the figures "1954" shall be substituted, and in clause (*b*) of the proviso to that clause, for the words "where full" the words "where, in the assessment of the assessee or if the assessee is a registered firm, in the assessment of its partners, full" shall be substituted;

(ii) in clause (*via*), for the words and figures "in the assessments for each of the five years commencing on the 1st day of April, 1949, and ending with the 31st day of March, 1954", the words and figures "in not more than five successive assessments for the financial years next following the previous year in which such buildings are erected and such machinery and plant installed and falling within the period commencing on the 1st day of April, 1949, and ending on the 31st day of March, 1959" shall be substituted, and in the proviso to that clause, for the words and figures "on the 31st day of March, 1953" the words "on the 31st day of March immediately preceding the last financial year in which the further sum referred to in this clause is admissible" and for the words "in the assessment for the year commencing next after that date", the words "in the assessment for such last financial year" shall respectively be substituted;

(iii) in clause (xv), for the words and brackets "(not being in the nature of capital expenditure or personal expenses of the assessee)" the words and brackets "(not being an allowance of the nature described in any of the clauses (i) to (xiv) inclusive, and not being in the nature of capital expenditure or personal expenses of the assessee)" shall be substituted;

(*b*) in sub-section (5),—

(i) after clause (*b*), the following clause shall be inserted, namely:—

"(*c*) in the case of assets acquired by the assessee by way of gift or inheritance, the 'written-down-value' as in the case of the previous owner or the market value thereof whichever is the less:" and

(ii) at the end, the following *Explanation* shall be inserted, namely—

"*Explanation.*—For the purposes of this sub-section, the expression 'actual cost' means the actual cost of the assets as reduced by the amounts, if any, received in the course of business from any outside source for or in connection with the purchase of such assets, and any allowvnce in respect of any depreciation carried forward under clause (*b*) of the proviso to clause (vi) of sub-section (2) shall be deemed to be depreciation 'actually allowed';".

9. *Amendment of section* 14, *Act XI of* 1922.—In section 14 of the principal Act, in clause (*c*) of sub-section (2), for the words and letter "Part B State" the words "the State of Jammu and Kashmir" shall be substituted.

10. *Amendment of section* 15C, *Act XI of* 1922.—In section 15C of the principal Act,—

(*a*) in sub-section (2),—

(i) in clause (ii), for the word "three" the word "six" shall be substituted;

(ii) in clause (iii), for the word "fifty" the word "twenty-five" shall be substituted;

(*b*) for sub-section (6), the following sub-section shall be substituted, namely:—

"(6) The provisions of this section shall apply to the assessment for the financial year next following the previous year in which the assessee begins to manufacture or produce articles and for the four assessments immediately succeeding."

11. *Amendment of section* 17, *Act XI of* 1922.—In sub-section (1) of section 17, after the first proviso, the following further proviso shall be inserted, namely:—

"Provided further that where any such person satisfies the Income-tax Officer that he was prevented by sufficient cause from making such declaration on the first occasion on which he became assessable and his failure to make

such declaration has not resulted in reducing his liability to tax for any year, the Income-tax Officer may, with the previous approval of the Inspecting Assistant Commissioner, allow such person to make the declaration at any time after the expiry of the period spscified, and such declaration shall have effect in relation to the assessment for the year in which the declaration is made (if such assessment had not been completed before such declaration) and all assessments thereafter."

12. *Amendment of section* 18, *Act XI of* 1922.—In section 18 of the principal Act,—

(*a*) in sub-section (2B), for the words "at the rate or rates applicable to the estimated income of the assessee under this head", the following shall be substituted, namely :—

"on the estimated income of the assessee under this head in accordance with the provisions of clause (*b*) of sub-section (1) of section 17 :

Provided that where—

(i) the person not so resident has obtained a certificate in writing from the Income-tax Officer (which certificate the Income-tax Officer shall be bound to give in every proper case on the application of the assessee) stating that income-tax and super-tax may be deducted at the rates specified therein, or

(ii) the Income-tax Officer has, by an order in writing, required the person responsible for making payment to deduct income-tax and super-tax at the rates specified in that order,

the person responsible for making payment shall, until such certificate or order is cancelled by the Income-tax Officer, deduct income-tax and super-tax at the rates specified in such certificate or order, as the case may be." ;

(*b*) for sub-sections (3A), (3B), (3C), (3D) and (3E), the following sub-sections shall be substituted, namely :—

'(3A) The person responsible for paying any income chargeable under the head "Interest on securities" to a person whom he has no reason to believe to be resident in the taxable territories, shall, at the time of payment, deduct super-tax on the amount of such interest—

(i) if such person is a company, at the rate applicable to a company,

(ii) if such person is not a company, in accordance with the provisions of clause (*b*) of sub-section (1) of section 17 :

Provided that where such person is not a company, the proviso to sub-section (2B) shall apply to the deduction of super-tax under this sub-section as it applies to the deduction of super-tax under sub-section (2B).

(3B) Any person responsible for paying to a person not resident in the territories any interest not being "Interest on securities" or any other sum chargeable under the provisions of this Act shall, at the time of payment, unless he is himself liable to pay any income-tax and super-tax thereon as an agent, deduct income-tax at the maximum rate and super-tax at the rate applicable to a company or in accordance with the provisions of sub-clause (*b*) of sub-section (1) of section 17, as the case may be :

Provided that where the person not resident is not a company, the proviso to sub-section (2B) shall apply to the deduction of income-tax and super-tax under this sub-section as it applies to the deduction of income-tax and super-tax under sub-section (2B). :

Provided further that nothing in this section shall apply to any payment made in the course of transactions in respect of which a person responsible for the payment is deemed under the first proviso to section 43 not to be an agent of the payee.

3C) Where the person responsible for paying any sum chargeable under this Act other than interest, to a person not resident in the taxable territories, considers that the whole of such sum would not be income chargeable in the case of the recipient, he may make an application to the Income-tax Officer to determine, by general or special order, the appropriate proportion of such sum so chargeable and upon such determination tax shall be deducted therefrom by the person responsible for making such payment in accordance with the provisions of sub-section (3B).

(3D) The principal officer of an Indian company or a company which has made such effective arrangements as may be prescribed for the deduction of super-tax from dividends shall, at the time of paying any dividend to a shareholder whom the principal officer has no reason to believe to be resident in the taxable territories, deduct super-tax on the amount of such dividend as increased in accordance with the provisions of sub-section (2) of section 16—

(i) if the shareholder is a company, at the rate applicable to a company,

(ii) if the shareholder is a person other than a company, in accordance with the provisions of clause (*b*) of sub-section (1) of section 17 :

Provided that in the case of a shareholder other than a company, the proviso to sub-section (2B) shall apply to the deduction of super-tax under this sub-section as it applies to the deduction of super-tax under sub-section (2B). ;

(*c*) in sub-section (5), after the words " Any deduction made " the words " and paid to the account of the Central Government " shall be inserted ; after the words " given to him therefor " the words " on the production of the certificate furnished under sub-section (9) or section 20, as the case may be," shall be inserted, and after the second proviso, the following further proviso shall be inserted, namely :—

" Provided further that where any security or share in a company is owned jointly by two or more persons not constituting a partnership, credit in respect of the tax deducted or in respect of any sum by which the dividend has been increased under sub-section (2) of section 16, may be given to each such person in the same proportion in which the interest on such security or dividend on such share has been included in his total income." ;

(*d*) in sub-section (7), for the words, brackets, figures and letters " sub-sections (3D) *and* (3E)" the word, brackets, figure and letter " sub-section (3D)" shall be substituted ;

(*e*) in sub-section (9), for the brackets, figures, letters and word " (3C), (3D) or (3E)", the word, brackets, figure and letter " or (3D)" shall be substituted ;

(*f*) after sub-section (9), the following Explanation shall be inserted, namely :—

" *Explanation.*—For the purposes of this section and section 20A, the expression ' person responsible for paying ' means—

(*i*) in the case of payments of income chargeable under the head ' Salaries ' other than payments by the Central Government or the Government of a State, the employer himself or if the employer is a company, the company itself including the principal officer thereof ;

(*ii*) in the case of payments of income chargeable under the head ' Interest on securities ', other than payments made by or on behalf of the Central Government or the Government of a State, the local authority or company including the principal officer thereof ;

(*iii*) in the case of payment of interest not being 'Interest on securities', the payer himself or if the payer is a company, the company itself including the principal member thereof."

13. *Amendment of section* 18*A*, *Act XI of* 1922.—In section 18A of the principal Act,—

(*a*) in sub-section (1) (*a*), for the words "if that total income exceeded six thousand rupees", the words "if that total income exceeded the maximum amount not chargeable to tax in his case by two thousand five hundred rupees" shall be substituted;

(*b*) in sub-section (3), for the words "is likely to exceed six thousand rupees," the words "is likely to exceed the maximum amount not chargeable to tax in his case by two thousand five hundred rupees." shall be substituted;

(*c*) to sub-section (5), the following further proviso shall be added, namely :—

"Provided further that no interest shall be payable after the 31st day of March, 1952.";

(*d*) in sub-section (6),—

(*i*) in the first proviso after the word "Provided", the word "further" shall be inserted and before that proviso, the following proviso shall be inserted, namely :—

"Provided that after the 31st day of March, 1952, interest shall be payable at the rate of four per cent per annum.";

(*ii*) after the last proviso, the following further proviso shall be inserted, namely :—

"Provided further that where the assessment is not contested by the assessee and the tax has been paid accordingly, the Income-tax officer may, having regard to the circumstances of the case, reduce or waive the interest payable by the assessee."

14. *Amendment of section* 22, *Act XI of* 1922.—In Section 22 of the principal Act,—

(*a*) after sub-section (2), the following sub-section shall be inserted, namely :—

"(2*A*) If any person, who has not been served with a notice under sub-section (2) has sustained a loss of profits or gains in any year under the head 'Profits and gains of business, profession or vocation', and such loss or any part thereof would ordinarily have been carried forward under sub-section (2) of section 24, he shall, if he is to be entitled to the benefit of the carry forward of loss in any subsequent assessment, furnish within the time specified in the general notice given under sub-section (1), all the particulars required under the prescribed form of return of total income and total world income in the same manner as he would have furnished a return under sub-section (1) had his income exceeded the maximum amount not liable to income-tax in his case, and all the provisions of this Act shall apply as if it were a return under sub-section (1).";

(*b*) in sub-section (4), for the words "such accounts or documents as the Income-tax Officer may require" the following shall be substituted, namely :—

"such accounts or documents, including accounts relating to any year subsequent to the previous year, as the Income-tax Officer may require, or to furnish in writing and verified in the prescribed manner information in such form and on such points or matters (including a statement of all assets and liabilities not included in the accounts) as the Income-tax Officer may require :".

15. *Amendment of section* 24, *Act XI of* 1922.—In section 24 of the principal Act,—

(*a*) in sub-section (1), for the first proviso, the following proviso shall be substituted, namely :—

"Provided that in computing the income, profits and gains chargeable under any head or the loss of profits and gains falling under any head, so much of any loss of profits and gains as would but for the loss have accrued or arisen within the State of Jammu and Kashmir, shall not be taken into account except to the extent of the amount of income, profits and gains, if any, which would be exempt under the provisions of clause (*c*) of sub-section (2) of section 14.";

(*b*) in sub-section (2),—

(*i*) for the words "under the head 'Profits and gains of business, profession or vocation", the words "in any business, profession or vocation" shall be substituted ;

(*ii*) for clause (*a*) of the proviso, the following clause shall be substituted, namely :—

"(*a*) where the loss sustained is in any business, profession or vocation, so much of such loss as is referred to in the first proviso to sub-section (1) shall not be set off except against the profits and gains accruing or arising in the State of Jammu and Kashmir from the same business, profession or vocation and exempt from tax under the provisions of clause (*c*) of sub-section (2) of section 14."

16. *Amendment of section* 30, *Act XI of* 1922.—In section 30 of the principal Act,—

(*a*) in sub-section (1), after the first proviso, the following proviso shall be inserted, namely :—

"Provided further that no appeal shall lie under this section against an order passed by an Inspecting Assistant Commissioner, when exercising the powers of the Income-tax Officer in pursuance of a direction given by the Commissioner under sub-section (5) of section 5.";

(*b*) in sub-section (1A), the brackets, figures, letters and word "(3A)" and "or (3C)" shall be omitted.

17. *Amendment of section* 33, *Act XI of* 1922.—In section 33 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely :—

"(1A) Any assessee objecting to any such order as is referred to in sub-section (1) of section 30, passed by an Inspecting Assistant Commissioner when exercising the powers of an Income-tax Officer, may appeal to the Appellate Tribunal within the time specified in sub-section (2) of that section, and the provisions of sections 30 and 31 shall, so far as may be, apply to such appeal as they apply to an appeal to the Appellate Assistant Commissioner from an order of the Income-tax Officer."

18. *Amendment of section* 33*A*, *Act XI of* 1922.—In sub-section (2) of section 33A of the principal Act, after the words "made within one year from the date of the order" the words and brackets "(or within such further period as the Commissioner may think fit to allow on being satisfied that the assessee was prevented by sufficient cause from making the application within that period)" shall be inserted.

19. *Amendment of section* 34, *Act XI of* 1922.—In the second proviso to sub-section (3) of section 34 of the principal Act, for the words "in pursuance of", the words "to an assessment or re-assessment made on the assessee or any other person in consequence of or to give effect to any finding or direction contained in" shall be substituted.

20. *Amendment of section* 35, *Act XI of* 1922.—In section 35 of the principal Act, after sub-section (4), the following sub-sections shall be inserted, namely :—

"(5) Where in respect of any completed assessment of a partner in a firm it is found on the assessment or re-assessment of the firm or on any reduction or enhancement made in the income of the firm under section 31, section 33, section 33A, section 33B, section 66 or section 66A that the share of the partner in the profit or loss of the firm has not been included in the assessment of the partner or, if included, is not correct, the inclusion of the share in the assessment or the correction thereof, as the case may be, shall be deemed to be a rectification of a mistake apparent from the record within the meaning of this section, and the provisions of sub-section (1) shall apply thereto accordingly, the period of four years referred to in that sub-section being computed from the date of the final order passed in the case of the firm.

(6) Where the excess profits tax or the business profits tax payable by an assessee has been modified in appeal, revision or any other proceeding, or where any excess profits tax or business profits tax has been assessed after the completion of the corresponding assessment for income-tax [whether before or after the commencement of the Indian Income-tax (Amendment) Act, 1952], and in consequence thereof it is necessary to re-compute the total income of the assessee chargeable to income-tax, such recomputation shall be deemed to be a rectification of a mistake apparent from the record within the meaning of this section, and the provisions of sub-section (1) shall apply accordingly, the period of four years referred to in that sub-section being computed from the date of the order modifying the assessment of such excess profits tax or business profits tax.

Explanation.—For the purposes of sub-section (6), where the assessee is a firm, the provisions of sub-section (5) shall also apply as they apply to the rectification of the assessment of the partners of the firm."

21. *Amendment of section* 37, *Act XI of* 1922.—Section 37 of the principal Act shall be numbered as sub-section (1) of that section, and after sub-section (1) as so numbered, the following sub-section shall be inserted, namely :—

"(2) Any authority referred to in sub-section (1) may impound and retain in its custody for such period as it thinks fit any books of account or other documents produced before it in any proceeding under this Act."

22. *Amendment of section 46, Act XI of 1922.*—In sub-section (7) of section 46 of the principal Act, for the proviso, the following provisos and the *Explanation* shall be substituted, namely :—

" Provided that the period of one year herein referred to shall—

(*i*) where an assessee has been treated as not being in default under section 45 as long as his appeal is undisposed of, be reckoned from the date on which the appeal is disposed of ;

(*ii*) where recovery proceedings in any case have been stayed by any order of a court, be reckoned from the date from which the order is withdrawn ;

(*iii*) where the date of payment of tax has been extended by an income-tax authority, be reckoned from the date up to which the time for payment had been extended ;

(*iv*) where the sum payable is allowed to be paid by instalments, from the date on which the last of such instalments was due :

Provided further that nothing in the foregoing proviso shall have the effect of reducing the period within which proceedings for recovery can be commenced, namely, after the expiration of one year from the last day of the financial year in which the demand is made.

Explanation.—A proceeding for the recovery of any sum shall be deemed to have commenced within the meaning of this section, if some action is taken to recover the whole or any part of the sum within the period hereinbefore referred to, and for the removal of doubts it is hereby declared that the several modes of recovery specified in this section are neither mutually exclusive, nor affect in any way any other law for the time being in force relating to the recovery of debts due to Government, and it shall be lawful for the Income-tax Officer, if for any special reasons to be recorded he so thinks fit, to have recourse to any such mode of recovery notwithstanding that the tax due is being recovered from an assessee by any other mode."

23. *Insertion of new section 46A in Act XI of 1922.*—After section 46 of the principal Act, the following section shall be inserted, namely :—

'46A. *Persons leaving India to obtain tax clearance certificates.*—(1) Subject to such exceptions as may be made by the Central Government, no person who is not domiciled in India, or who, even if domiciled in India at the time of his departure, has, in the opinion of an Income-tax authority, no intention of returning to India, shall leave the territory of India by land, sea or air unless he first obtains from such authority as may be appointed by the Central Government in this behalf (hereinafter in this section referred to as the "competent authority") a certificate stating that he has no liabilities under this Act, the Excess Profits Tax Act, 1940 (XV of 1940), or the Business Profits Tax Act, 1947 (XXI of 1947), or that satisfactory arrangements have been made for the payment of all or any of such taxes which are or may become payable by that person :

Provided that if the competent authority is satisfied that such person intends to return to India, he may issue an exemption certificate either in respect of a single journey or in respect of all journeys to be undertaken by that person within such period as may be specified in the certificate.

(2) If the owner or charterer of any ship or aircraft carrying persons from any place in the territory of India to any place outside the territory allows any person to whom sub-section (1) applies, to travel by such ship or aircraft without first satisfying himself that such person is in possession of a certificate as required by that sub-section, he shall be personally liable to pay the amount of tax, if any, which is or may be payable by such person, and shall also be punishable with fine which may extend to two thousand rupees.

Explanation.—For the purposes of this sub-section the expressions 'owner' and 'charterer' include any representative, agent or employee empowered by the owner or charterer to allow persons to travel by the ship or aircraft.

(3) In respect of any sum payable by the owner or charterer of any ship or aircraft under sub-section (2), the owner or charterer, as the case may be, shall be deemed to be an assessee in default within the meaning of sub-section (1) of section 46.

(4) The Central Government may make rules for regulating any matter necessary for, or incidental to, the purpose of carrying out the provisions of this section.'

24. *Amendment of section 49B, Act XI of 1922.*—Section 49B of the principal Act shall be numbered as sub-section (1) thereof, and after sub-section (1) as so numbered, the following sub-section shall be inserted, namely :—

"(2) For the purposes of sub-section (1), income-tax shall be deemed to include agricultural income-tax assessed on a company by any State Government other than the Government of Jammu and Kashmir, and where any shareholder proves that the company has been so assessed to agricultural income-tax, he shall be entitled to the reduction from the tax payable by him under this Act of a sum equal to—

(*a*) the appropriate agricultural income-tax (reduced by the amount of refund, if any, allowed to him by the State Government), or

(*b*) the appropriate Indian income-tax on the amount of the dividend which has not been increased under sub-section (2) of section 16,

whichever is the less.

Explanation.—In this sub-section,—

(*a*) 'appropriate agricultural income-tax' means such proportion of the agricultural income-tax as the amount of dividend which has not been increased under sub-section (2) of section 16 bears to the total profits of the company assessed to agricultural income-tax; and

(*b*) 'appropriate Indian income-tax' means such proportion of the income-tax payable by the shareholder under this Act as the amount of dividend which has not been increased under sub-section (2) of section 16 bears to the total income of the shareholder."

25. *Amendment of section 49D, Act XI of 1922.*—For section 49D of the principal Act, the following section shall be substituted, namely :—

"49D. *Relief in respect of incomes accruing or arising outside the taxable territories.*—(1) If any person who is resident in the taxable territories in any year proves that, in respect of his income which accrues or arises during that year without the taxable territories (and which is not deemed to accrue or arise in the taxable territories), he has paid in any country, with which there is no reciprocal arrangement for relief or avoidance of double taxation, income-tax, by deduction or otherwise, under the law in force in that country, he shall be entitled to the deduction from the Indian income-tax payable by him of a sum calculated on such doubly taxed income at the Indian rate of tax or the rate of tax of the said country, whichever is the lower.

(2) The Central Government may, by notification in the Official Gazette, declare that the provisions of sub-section (1) shall also apply in relation to any such income accruing or arising in the United Kingdom and chargeable under this Act for the year ending on the 31st day of March, 1950, or for the year ending on the 31st day of March, 1951 or for the year ending on the 31st day of March, 1952.

Explanation.—In this section,—

(*i*) the expression "Indian income-tax" means income-tax and super-tax charged in accordance with the provisions of this Act;

(*ii*) the expression "Indian rate of tax" means the rate determined by dividing the amount of Indian income-tax after deduction of any relief due under the other provisions of this Act but before deduction of any relief due under this section, by the total income;

(*iii*) the expression "rate of tax of the said country" means income-tax and super-tax actually paid in the said country in accordance with the corresponding laws of the said country after deduction of all reliefs due, divided by the whole amount of the income assessed in the said country."

26. *Amendment of section 49E, Act XI of 1922.*—In section 49E of the principal Act, for the words "against the tax" the words "against the tax, interest or penalty" shall be substituted.

27. *Amendment of section 54, Act XI of 1922.*—In sub-section (3) of section 54 of the principal Act,—

(*i*) for clauses (*a*) and (*b*), the following clauses shall be substituted, namely :—

"(*a*) of any such particulars in connection with a prosecution under the Indian Penal Code (Act XLV of 1860) or under this Act, in respect of any matter arising in the course of the execution of this Act, or

(*b*) of any such particulars to any person acting in the execution of this Act or of the Taxation on Income (Investigation Commission) Act, 1947 (XXX of 1947), where it is necessary or desirable to disclose the same to him for the purposes of either this Act or the Taxation on Income (Investigation Commission) Act, 1947, " ; or

(*ii*) in clause (*d*), after the word " Government " the words " or any Income-tax authority " shall be inserted and after the words " under this Act, " the words " or under any other law for the time being in force authorising any Income-tax authority to exercise any powers thereunder " shall be inserted ;

(*iii*) in clause (*gg*), the words " in connection with income-tax proceedings " shall be omitted and for the words " registered accountant " the words " chartered accountant " shall be substituted.

28. *Amendment of section 58C, Act XI of 1922.*—In sub-section (1) of section 58C of the principal Act,—

(*i*) to clause (*d*), the following proviso shall be added, namely :—

" Provided that the fund may consist also of the accumulated balance due to an employee who has ceased to be an employee and of interest (simple and compound) in respect thereof where such balance is retained in the fund in accordance with the provisions of clause (*g*). " ;

(*ii*) in clause (*g*), after the words " maintaining the fund " the words " unless at the request of the employee made in writing, the trustees of the fund consent to retain the whole or any part of the accumulated balance due to the employee in the fund to be drawn by him at any time on demand " shall be inserted.

29. *Amendment of section 59, Act XI of 1922.*—In sub-section (2) of section 59 of the principal Act, for clauses (*c*) and (*d*), the following clause shall be substituted, namely :—

" (*c*) prescribe the procedure for giving effect to the terms of any agreement for the avoidance of double taxation on income which may be entered into by the Central Government under section 49AA ; ".

30. *Amendment of section 66A, Act XI of 1922.*—In sub-section (1) of section 66A of the principal Act for the words, brackets and figures " and in respect of such case the provisions of section 98 of the Code of Civil Procedure, 1908 (Act V of 1908) shall, so far as may be, apply notwithstanding anything contained in the Letters Patent of any High Court established by Letters Patent or in any other law for the time being in force ", the following shall be substitued, namely :—

" and shall be decided in accordance with the opinion of such Judges or of the majority (if any) of such Judges :

Provided that where there is no such majority, the Judges shall state the point of law upon which they differ, and the case shall then be heard upon that point only by one or more of the other Judges of the High Court, and such point shall be decided according to the opinion of the majority of the Judges who have heard the case, including those who first heard it. "

31. *Substitution of new section for section 67, Act XI of 1922.*—For section 67 of the principal Act, the following section shall be substituted, namely :—

" 67. *Bar to legal proceedings.*—(1) No suit or other legal proceeding shall lie in any civil court—

(*a*) to set aside or modify any assessment under this Act, or

(*b*) for the grant of any relief which will have the effect of preventing the commencement or continuance of any assessment proceeding against any person under this Act.

(2) No prosecution, suit or other legal proceeding shall lie against any officer of the Government for anything in good faith done or intended to be done under this Act. "

32. *Amendment of the Schedule, Act XI of 1922.*—(1) In the Schedule to the principal Act,—

(*a*) for the words "Superintendent of Insurance", wherever they occur the words "Controller of Insurance" shall be substituted ;

(*b*) in rule 2,—

(*i*) in clause (*b*), for the words "actuarial valuation made for the last inter-valuation period", the words "actuarial valuation made in accordance with the Insurance Act, 1938 (IV of 1938), in respect of the last inter-valuation period" shall be substituted ;

(*ii*) in clause (*d*) of the proviso, for the figures "12" the figures "15" shall be substituted ;

(*c*) in clause (*a*) of rule 3, for the words "one-half" the words "four-fifths" shall be substituted, and in the second proviso for the words "one-half of such amount" the words and brackets "that proportion of such amount (one-half or four-fifths, as the case may be)" shall be substituted ;

(*d*) for rule 8, the following rule shall be substituted, namely :—

"8. The profits and gains of the branches in the taxable territories of a person not resident in the taxable territories and carrying on any business of insurance, may, in the absence of more reliable data be deemed to be that proportion of the world income of such person which corresponds to the proportion which his premium income derived from the taxable territories bears to his total premium income.

For the purposes of this rule, the world income in relation to life insurance business of a person not resident in the taxable territories shall be computed in the manner laid down in these rules for the computation of the profits and gains of life insurance business carried on in the taxable territories."

(2) The amendments made by sub-section (1) shall be deemed to be operative in relation to any assessment subsequent to the assessment for the year ending on the 31st day of March, 1951, whether such assessment has or has not been made before the commencement of this Act and where any such assessment has been made before such commencement it shall be lawful for the Income-tax Officer to revise it, wherever necessary, to give effect to such amendments.

33. *Application of Act.*—Subject to any special provision made in this behalf in this Act, the amendments made by this Act in the principal Act shall have effect in relation to all assessments for the year ending on the 31st day of March, 1953 and subsequent years.

34. *Validity of certain notices and assessments.*—For the removal of doubts it is hereby declared that the provisions of sub-sections (1), (2) and (3) of section 34 of the principal Act shall apply and shall be deemed always to have applied to any assessment or re-assessment for any year ending before the 1st day of April, 1948, and any notice issued in accordance with sub-section (1) or any assessment completed in pursuance of such notice within the time specified in sub-section (3), whether before or after the commencement of the Indian Income-tax (Amendment) Act, 1952, shall, notwithstanding any judgment or order of any court, Appellate Tribunal of Income-tax authority to the contrary, be deemed to have been validly issued or completed, as the case may be, and no such notice, assessment or re-assessment shall be called in question on the ground merely that the provisions of section 34 did not apply or purport to apply in respect of an assessment or re-assessment for any year prior to the 1st day of April, 1948.

STATEMENT OF OBJECTS AND REASONS

The object of this Bill is—

(*a*) to give effect to some of the urgent, clarificatory and beneficial provisions contained in the comprehensive Income-tax Amendment Bill (Bill No. 56 of 1951), which was introduced in June last year and which has now lapsed;

(*b*) to give effect to some further concessions to Industries;

(*c*) to make certain amendments which have become necessary owing to some recent judicial decisions, and in the light of the experience gained in the working of the Act; and

(*d*) to make certain amendments so as to bring the law in line with the practice and with the administrative changes already made or under contemplation.

2. A comprehensive Income-tax (Amendment) Bill including, amongst others, such recommendations of the Income-tax Investigation Commission as had been accepted by Government was introduced in June last year, but it could not be taken up for consideration in the subsequent sessions of Parliament owing to pressure of other urgent business. That Bill has now lapsed, and in any case its provisions would have required detailed examination in the light of the comments received from various quarters. Meanwhile, it has become necessary to introduce a shorter Bill containing the amendments described above.

3. The notes on clauses explain the object underlying each of the amendments contained in the Bill.

C. D. DESHMUKH.

NEW DELHI,
The 13th May, 1952.

M. N. KAUL,
Secretary.

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